

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CARLOS A. ORTEGA,

Plaintiff,

v.

A. FLORES, et al.,

Defendants.

Case No. [19-cv-00319-HSG](#)

**ORDER DENYING PLAINTIFF'S  
REQUEST FOR AN EXTENSION OF  
TIME TO RESPOND TO ANSWER;  
SUA SPONTE GRANTING  
EXTENSION OF TIME TO FILE  
OPPOSITION TO MOTION TO  
DISMISS**

Re: Dkt. No. 26

Plaintiff, an insanity acquittee at Napa State Prison, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against Defendants A. Flores, J. Diaz, Melek, and Dugamis for the excessive use of force. Defendants Flores, Diaz, and Melek filed an answer to the complaint on June 24, 2019 (Dkt. No. 18), and a motion to dismiss on July 15, 2019 (Dkt. No. 24).


On July 29, 2019, Plaintiff filed a request seeking a copy of “Defendants’ motion titled ‘Answer to Complaint,’ per Doc. 18,” stating that Defendants never served him with this pleading and requesting an extension of time to respond to the answer. Dkt. No. 26. Plaintiff misunderstands the answer filed by Defendants Flores, Diaz, and Melek. An answer responds to the allegations set forth in the complaint by stating a defendant’s defenses to the claims asserted against him, and by admitting or denying the allegations asserted against him. *See generally* Fed. R. Civ. P. 8(b). An answer is not a motion and therefore no opposition or reply is required or allowed, unless so ordered by the Court. *See* Fed. R. Civ. P. 7 (only pleadings allowed are complaint, answer to complaint, answer to counterclaim designated as counterclaim, answer to crossclaim, third-party complaint, answer to third-party complaint, and reply to answer if the court orders such a reply). The Court has not ordered Plaintiff to file a reply to the answer because no

1 such reply is needed. Plaintiff's request for an extension of time to respond to the answer is  
2 therefore DENIED as moot. Plaintiff's request for a copy of the answer is GRANTED and the  
3 answer will be sent to him under separate cover.<sup>1</sup> Because it is unclear if Plaintiff has been  
4 receiving the motions filed by Defendants, the Court will also send to Plaintiff an additional copy  
5 of Defendants' motion to dismiss (Dkt. No. 24) under separate cover and *sua sponte* grant Plaintiff  
6 an extension of time to file his opposition to Defendants' motion to dismiss. Plaintiff shall file his  
7 opposition to the motion to dismiss by **September 16, 2019**. Defendants shall file a reply brief no  
8 later than 14 days after the date the opposition is filed. The motion shall be deemed submitted as  
9 of the date the reply brief is due. No hearing will be held on the motion.

10 This order terminates Dkt. No. 26.

11 **IT IS SO ORDERED.**

12 Dated: 8/6/2019

13   
14 HAYWOOD S. GILLIAM, JR.  
15 United States District Judge  
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28 <sup>1</sup> The Court notes that, according to the certificate of service, Defendants served the answer on Plaintiff by mail. *See* ECF No. 18 at 5.